

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 338 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAHENDRAKUMAR NATVARLAL

LAKDAWALA

Versus

REGIONAL TRANSPORT OFFICER & REGISTERING AUTHORITY

Appearance:

MR BN KESHWANI for Petitioner

NOTICE SERVED BY DS for Respondent No. 1

PUBLIC PROSECUTOR for Respondent No. 2

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 06/05/98

ORAL JUDGEMENT

1. Heard Mr.B.N.Keswani, Ld.advocate appearing for the petitioner. Rule. Mr.A.J.Desai, Ld.APP appearing for respondent Nos 1 & 2 waives service of rule. By consent of Ld.advocates for parties matter is finally heard today.

2. The petitioner has approached this court with a prayer claiming appropriate writ/direction against respondent No.2 to transfer the vehicle bearing Reg.No.GJ-14-T-162 in the name of the purchaser as suggested by the petitioner to the respondent No.1. The petitioner has further prayed for direction to respondent No.1 to delete the entry of HPA in the registration book of the said vehicle.

3. It has been submitted on behalf of the petitioner that the petitioner, being the owner of the above stated vehicle, had made an application to the respondent No.1 to delete the entry of HPA and to make fresh entry as prayed and to transfer the said vehicle in the name of the purchaser. However, in response to said request the petitioner has received communication, dated 15.4.98 from the respondent No.1 copy of which is produced at annexure "A" on running pages 3 & 13 to the petition. That accordingly, the petitioner is informed that the request of the petitioner shall be accepted provided certain pending departmental cases in respect to subject vehicle are disposed of. The petitioner has alleged that no departmental case is pending in respect to subject vehicle. That under sections 50 and 51 of the Motor Vehicles Act, 1988 concerned officer of the respondent No.1 is duty bound to consider the request made by the petitioner regarding transfer and change in the entry of HPA.

4. Mr.A.J.Desai, Ld.APP has stated at Bar that as per instructions received from respondent No.1 the vehicle could not be transferred as per the request of the petitioner on account of outstanding arrears of RTO tax payable for the subject vehicle. However, no affidavit in respect to said fact could be put on record as the concerned officer is sick and on leave.

5. Mr.Keshwani appearing on behalf of the petitioner has stated at Bar on instructions received from the petitioner that any legitimate dues of the respondent No.1 towards outstanding arrears of tax for the subject vehicle shall be paid and liability shall be discharged subject to contention of the petitioner against such liability.

6. In view of above referred statement made by the petitioner the respondent No.1 is hereby directed to serve a written intimation to the petitioner towards outstanding dues of tax, if any, and on payment of such arrears of tax, subject to the contention of the

petitioner, by the petitioner the concerned officer of the respondent No.1 shall transfer the said vehicle bearing Reg.No.GJ-14-T-162 in the name of the purchaser as suggested by the petitioner in TTO form. The respondent No.1 shall also cause change in the entry of HPA as prayed by the petitioner in the registration book. The petitioner shall be at liberty to avail of any remedy available under law in respect to payment of tax if any found excessive and illegal by him. Rule is made absolute accordingly. No costs.

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